

A regular meeting of the Town of Victor Planning Board was held on September 11, 2018 at 7:00 p.m. at the Victor Town Hall at 85 East Main Street, Victor, New York, with the following members present:

**PRESENT:** Ernie Santoro, Chairman; Joe Logan, Vice Chairman; Heather Zollo, Al Gallina (left early), Rich Seiter

**OTHERS:** Wes Pettee, Town Engineer Consultant; Kim Kinsella, Project Coordinator; Cathy Templar, Secretary; Councilman Mike Guinan, Town Board Liaison; Kate Crowley, Conservation Board; Mr. Joe Picciotti, Town Attorney; Greg Jameson, Robert Schlueter, Chris Nally, Thomas Wahl, Stephen Gullace, M. McCarthy, Jean Laitenberger, Allen Ibrisimovic, Eric Lake, Ben Lake, Dave Kiddie, Miles Rugg, Gordy Phillips, Alan Knauf, Bill Smith, Dale Love, Dave Hahn, Al LaRue, Katherine Hearn, Dave Welsh, Ryan McElhiney, Dan Williams, Lee Wagar, Jeff Knapp, Susan Loughanne, David Nellis, David Nankin, Ken Curry, Gerald Birmingham, Ruth Nellis, Ken Fyfe, David & Leona Hawkins, J Bold, Diane Bold, Patrick Liberti, Brian Chappell, Nancy Pratt, Nancy Hooker, Neil Stein, Kate Crowley, Rilly Nally, Peter Colucci, Steve Mancini, Cheryl Jones-Richter, Walt LaRaus, Scott DeHollander

### **APPROVAL OF MINUTES**

On motion of Al Gallina, seconded by Joe Logan

RESOLVED that the minutes of August 28, 2018 be approved.

Ernie Santoro	Aye
Joe Logan	Aye
Heather Zollo	Aye
Al Gallina	Aye
Rich Seiter	Absent at the 8/28 meeting

Approved 4 Ayes, 0 Nays, 1 Abstention

### **CORRESPONDENCE RECEIVED**

- Patrick Liberti re: Gullace Project
- Dave Hahn re: Gullace Project
- J Doyle re: Gullace Project
- R Brown re: Gullace Project

### **BOARDS & COMMITTEE REPORTS**

There were no reports from the Conservation Board or from the Town Board

PLANNING BOARD reported by Kim Kinsella  
September 25, 2018 meeting

- Public Hearing
  - Zac Holtz Subdivision on Blazey Rd – a 2 lot subdivision
  - Carol Anderson Subdivision on Strong Rd – a 4 lot subdivision
- Carry over from 8/28 mtg
  - Dunbar Hill Subdivision on Lane Rd – a 4 lot subdivision

## **DECISION**

### **GULLACE PROJECT**

Preliminary Site Plan

Appl No 19-SP-17

Owner – Lynaugh Road Properties, LLC

Acres- 16.40 +/-

Zoned – Multiple Dwelling

Applicant is requesting approval for 62 for-sale condominium townhomes. The west portion of CR 9 will remain 14 duplex units. The east portion of CR 9 will be a mixture of 2 and 3 unit bldgs and one single 4 unit bldg.

Chairman Santoro – We will read a resolution and I advise everyone that there will be no public comments tonight nor comments from the applicant.

*Chairman Santoro read the resolution*

## **RESOLUTION**

WHEREAS, the Town of Victor Planning Board (“Planning Board”) received an application on or about April 30, 2014 from BME Associates (“the Application”) on behalf of Lynaugh Road Properties, LLC (the “Applicant”) seeking site plan approval for the property located at 995 County Road 9, also known as Victor-Egypt Road, (Tax Map No. 16.00-1-46.000) for one-hundred (100) apartment units and a clubhouse. The referenced Application was assigned Project Number 18-SP-14, and such land retains a Multiple Dwelling zoning classification; and,

WHEREAS, the Applicant submitted a revised plan on or about February 18, 2015 depicting seventy-one (71) for-sale townhomes; and,

WHEREAS, the Application requesting approval for 71 for-sale townhomes was reviewed under the State Environmental Quality Review Act (“SEQRA”), and was classified by the Planning Board as a Type I Action, and the Planning Board conducted a coordinated review, serving as Lead Agency, and found that environmental impacts from the Application likely anticipated with regard to: land use; surface water; ground water; impacts to plants and animals; transportation; energy; noise, odor and light; and community character. While the Planning Board found that potential moderate to large impacts might be anticipated with the following, the

impacts did not rise to a level of being significant, as more fully described in Part 2, Part 3 and attachments to the Long Environmental Assessment form.

- The proposed action may substantially interfere with nesting/breeding, foraging, or overwintering habitat for the predominant species that occupy or use the project site.
- The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat.
- Projected traffic increase may exceed capacity of existing road network.
- The proposed action is inconsistent with the predominant architectural scale and character.

As the Planning Board found that the impacts did not rise to a level of having the potential to be significant adverse environmental impacts, the Planning Board issued a Negative Declaration on June 23, 2015; and,

WHEREAS, The Planning Board received an updated Application on or about May 24, 2016 from BME Associates on behalf of the Applicant seeking preliminary subdivision approval for a cluster subdivision at 995 County Road 9, also known as Victor-Egypt Road, (Tax Map No. 16.00-1-46.000) for sixty-nine (69) for-sale ranch style townhomes within a configuration of 3- and 4-unit “blocks” for a total of 53 units on the eastern portion of the lands (on one side of the road) and 16 units consisting of 2- and 3-unit blocks on the western portion of the lands (on the other side of the road). (It is important to note the parcel at issue straddles the road). The application has been assigned Project Number 2-PS-16; and,

WHEREAS, the Planning Board opened a public hearing on June 28, 2016 for the Application, as required by Section 184-13, Paragraph C (2)(d) of the Victor Town code and Section 276 of New York State Town Law, and the public hearing was closed on October 25, 2016, and the Planning Board’s staff received written and verbal comments issued from the time the updated Application was received on or about May 24, 2016 through October 2016 for the Planning Board’s review and consideration of public comments; and,

WHEREAS, on June 5, 2017, BME Associates submitted a revised site plan, requesting site plan approval for 69 for-sale condominium townhomes, thereby withdrawing the preliminary subdivision application associated with Project Number 2-PS-16. The Planning Board deemed the updated site plan application of 6/5/17 as an extension of the previous site plan under Project Number 18-SP-14. The Town’s Director of Development assigned a new Project Number, 19-SP-17, to the revised site plan (hereinafter the “Application” or “the Site Plan Application”) and,

WHEREAS, a public hearing for the Site Plan Application was duly called for, and notification of the public hearing was published in “The Daily Messenger”, and all property owners within 1,000-feet of the subject property were notified by U.S. Mail. An “Under Review” sign was posted on the subject parcel as required by Town Code. The public hearing was opened for the Site Plan Application on August 8, 2017 and was closed on January 9, 2018; and,

WHEREAS, the Application was further revised and received by the Planning Board on June 26, 2018, which now proposes 62 for-sale condominium townhouses, which would include fourteen (14) duplex units west of County Road 9 and forty-eight (48) units configured within 2-, 3- and

one 4-unit blocks on the east side of County Road 9 (hereinafter “the Revised Application” or “the Revised Site Plan Application”) ; and,

WHEREAS, the development proposed pursuant to the Revised Application is divided into four (4) sections, Section 1 and Section 2, the area between County Road 9 and Lynaugh Road, would consist of 25 and 23 condominium townhomes, respectively. Section 3, the area west of County Road 9 would consist of 14 condominium townhomes. Section 4, the area within the Village of Victor, would consist of 16 single-family lots that would need review and approval by the Village Planning Board (collectively the 4 sections comprising the development which is the subject of the Revised Application may be referred to as “the Project”); and,

WHEREAS, a Traffic Impact Study (“TIS”) was initially prepared by Stantec on behalf of the Applicant in 2013, and portions of the TIS were modified over time due to agency comments and project scope changes. A second TIS by Stantec was submitted to the Planning Board in October 2017, which incorporated the aforementioned modifications, and a revised TIS was subsequently prepared and submitted in April 2018 to address various concerns including the speed of existing traffic in the area of the Project and the impact of that if the Project was approved and constructed and similarly , traffic and pedestrian safety associated with same, including the sufficiency or lack of sufficiency of traffic gaps to allow for safe traffic operations, as well as to address comments from the Town’s Traffic Engineer, Clark Patterson Lee (“CPL”) in the CPL January 19, 2018 memorandum and CPL March 5, 2018 letter. The results of the 2018 TIS indicate that: 1) vehicle speeds on County Road 9 are 15-20mph over the posted speed limit; 2) there are enough gaps in traffic on County Road 9 and Lynaugh Road that would allow for a vehicle on said road to safely make a left turn onto a side road and/or safely exit a side road onto County Road 9 and Lynaugh Road; and 3) traffic calming measures would help address the excessive speed issue.

WHEREAS, the Planning Board made the following additional findings:

1. The proposed for-sale condominium townhomes comprising a portion of the Project which is the subject of the Revised Application constitute an allowed use within the Town of Victor’s Multiple Dwelling Zoning District, and the proposed density, as a mix of duplexes and multiple dwellings, does not exceed threshold requirements as set forth in Schedule II, Area and Height Requirements of the Victor Town Code.
2. The Conservation Board reviewed the Revised Site Plan Application on July 17, 2018 and it indicated that the Project meets the open space requirement; however, it noted that such space would largely be unusable by the community given the density of the Project site.
3. The Village of Victor’s Department of Works, reviewed the Project and provided no comment in regard to the portion of the Project located within the Town’s geographic limits.
4. The Application was referred to the Ontario County Planning Board under General Municipal Law, Section 239-m where the Ontario County Planning Board retained

application as a Class 2 with comments and recommendation for approval.

5. Pursuant to Section 27-8J of the Town Code, a recreation fee for each lot, or in the event of a multiple dwelling, a recreation fee for each family unit, in lieu of park land shall be paid to the Town before issuance of a building permit.

NOW, THEREFORE BE IT RESOLVED that the Revised Site Plan Application of Lynaugh Road Properties, LLC, for Preliminary/Final Site Plan approval based on the application submitted on behalf of the Applicant by BME Associates, dated June 2018, last revised July 31, 2018, Planning Board Application No. 19-SP-17, BE CONDITIONALLY APPROVED; and,

BE IT FURTHER RESOLVED, The Town of Victor Planning Board hereby requires, as conditions of site plan approval, the following:

1. To the satisfaction of the Town Engineer, a scaled site plan submission document be filed with the Town and the Town Engineer that depicts site boundaries and property owner information; existing conditions and demolition plan; location and dimensions of condominium townhouses; location and dimensions of proposed easements; proposed road layout and rights-of-way dimensions; parking to be constructed and land bank parking areas; pedestrian accommodations such as sidewalks and crosswalks; water main, sanitary and storm sewer layout, including pipe materials, dimensions and slope; utility manholes and associated details; stormwater management facilities; grading plan showing existing and proposed contours at intervals of not more than two (2) feet; a construction and erosion control plan; lateral plan; landscaping plan depicting landscaping and screening, grading for the overall site and building foundation plantings; lighting plan; roadway and utility profiles; and detail sheets (“the Final Site Plan Submission”).
2. That the Applicant obtain approval from the Village of Victor Planning Board for those aspects of the Project located in the Village, as it is recognized that the Project cannot be constructed unless each such approval is granted by the Village, including but not limited to any site plan, subdivision or other approval the Village may require, including approval associated with Phase 4 of the Project. Further, under no circumstances shall a building permit be issued for the Project by the Town for any phase of the Project unless and until each of the approvals associated with the Project are issued by the Village because the Project as designed is one integrated development located in the Village and the Town.
3. That the elevations and architecture of the proposed condominium townhomes be consistent with the colored renderings and elevations drawn by James Fahy Design Associates, which were received by the Planning Board on September 7, 2018 and be set out in the Final Site Plan Submission.
4. That for the proposed Section 4 portion of the Project to be located within the Village, the Applicant incorporate engineering measures into it, including membrane backstops at field inlets and interceptor drains between inlets to direct infiltration away from the

residences on East Parkway to the satisfaction of the Town Engineer and as required by the Village. This effort is intended to lessen the potential for groundwater flow towards East Parkway, as noted in the January 2, 2018 Memorandum from LaBella Associates to the Town's Project Coordinator. A copy of the approved plans for Section 4 shall be provided to the Town Engineer to verify such engineering measures are provided to the Town Engineer's satisfaction.

5. That the overflow parking (land bank) spaces be depicted on the Final Site Plan Submission and be constructed at the Condominium HOA's expense. Furthermore, the Condominium HOA shall notify the Town, in writing, of its intent to install the parking, and that confirm such parking will be constructed in conformance with the Final Site Plan Submission when and if the Condominium HOA decides to install the parking in the future. The Condominium HOA shall be responsible for maintenance and snow removal for the overflow parking. A Note shall be affixed to the Final Site Plan Submission indicating maintenance and snow removal are the responsibility of the Condominium HOA.
6. That the Applicant construct the traffic calming measures depicted on the Final Site Plan Submission including as described in the May 9, 2018 letter by the Town's Traffic Engineer, CPL, including:
  - a. Entrance (Intersection) warning signs on both Church Street and Lynaugh Road in both the north and southbound direction. This would also satisfy the Ontario County DPW comment 5 noted in the Ontario County Planning Board's minutes.
  - b. Creation and/or enhancing the transition zone with the following gateway treatments to include tree plantings, welcome signs, and lighting within the transition zone between the Village and Town, as well as the property access points to the satisfaction of the Town Engineer in consultation with the Town Traffic Engineer. These measures shall give the appearance of a narrow corridor and provide a visual cue to drivers that they are entering a different type of environment and should modify their driving to a slower speed. However, such treatments shall not create sight distance issues on roadway curves and side streets.
  - c. Upgrade to the "Speed Zone Ahead" sign on Lynaugh Road to comply with standards within the Manual of Uniform Traffic Control Devices (MUTCD) to the satisfaction of the Town Engineer in consultation with the Town Traffic Engineer.
7. That as required by Section 211-25 B(4)(e)[1] of the Victor Town Code, and to the satisfaction of the Town Engineer, the Final Site Plan Submission must provide a ten-foot wide landscaped area along all property lines, excluding points of ingress and egress. The landscaped area must be densely planted with a mixture of shrubs and trees, which shall be no less than six-feet high at the time of planting, to create an opaque screen to the satisfaction of the Town Engineer. The ten-foot wide landscaped buffer must be depicted on the Landscape Plan and planted along the municipal boundary line of the Town and Village of Victor, along the lots identified as "12V" through "16V" noted within future Section 4 of the project.

8. That to the satisfaction of the Town Engineer, the Applicant depict lighting on the Final Site Plan Submission that is full cutoff, as required by Chapter 131 of the Victor Town Code, and that catalog cut sheets be submitted to the Town's Code Enforcement Officer for he or she to verify that proposed light fixtures comply with Chapter 131 of the Victor Town Code.
9. In addition to the landscape screening, to the satisfaction of the Town Engineer, the Applicant shall construct a six-foot tall wooden stockade fence and it shall be depicted on the Final Site Submission along the northern property line of the project, which will serve as a boundary between the Project and properties with tax map numbers 16.00-01-45.1 and 16.00-01-43.2. Furthermore, the Condominium HOA shall be responsible for maintenance and upkeep of said fence.
10. To the extent Ontario County requires the Applicant to participate in and be a part of a sidewalk and/or storm sewer crossing encroachment agreement, that the Applicant work with the Town's Project Coordinator to execute such agreements.
11. That in order to be effective the Final Site Plan Submission must be stamped by a Planning Board representative or signed by the Town Engineer.
12. No final signature/stamp in accordance with condition 11 can be affixed on the Final Site Plan Submission until and unless all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
13. That the comments in a letter dated September 5, 2018 from LaBella Associates shall be addressed to the satisfaction of the Town Engineer; including comments related to the clarity of steep slope depiction, accessibility of stormwater management facilities and bioretention areas, storm sewer velocity, erosion and sediment control sequence, submission of a Stormwater Pollution Prevention Plan (SWPPP), sewer district extension, lighting district, and letter of credit.
14. That comments from the Town Highway Superintendent dated September 10, 2018 be addressed to the satisfaction of the Town Engineer, including the need for the cul-de-sac to be designed and depicted on the Final Site Plan to meet the Town's Design and Construction Standards, including the radius at the entrance to the cul-de-sac, and that the turnaround in Section 3 be depicted on the Final Site Plan to meet the Town's Design and Construction Standards.
15. That comments from Town of Farmington Water & Sewer dated August 4, 2018 shall be addressed, including resolving details of sanitary lateral size, materials, fittings and clean outs.
16. That the activity related to trucking in and placing fill, or removing topsoil and earth be limited to the hours of 8:00 AM to 5:00 PM, and may occur Monday through Friday only, and not on Saturdays or Sundays. Any trucks used to transport fill, topsoil or earth shall be covered. Any trucks delivering fill or removing topsoil / earth shall not utilize "Jake Brakes" nor exceed posted speed limits on Church Street or Lynaugh Road.

**Ongoing conditions:**

1. That the Revised Site Plan as depicted in the Final Site Plan Submission comply to the satisfaction of the Town Engineer with Town of Victor Design and Construction Standards for Land Development, including Section 4.
2. Two-year Maintenance Bonds shall be field by the Applicant with the Town for all improvements to be offered to the Town for dedication. That such Maintenance bonds be written by a surety licensed to do business in New York State and they shall be in the amount of ten (10%) of the final construction cost, as determined by the Engineer for the Town and be in a form deemed acceptable by the Town Engineer and the Town Attorney.
3. Should underground water conditions be encountered during construction, the Applicant shall address the encroachment and impact of same to the satisfaction of the Town Engineer.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the Planning Board's approval letter to include the Village of Victor, 60 East Main Street, Victor, NY 14564.

Chairman Santoro – Do I have a motion?

Mr. Logan made the motion.

Chairman Santoro – Do I have a second? Looking for a second. I'm not getting a second. We don't have a motion. Any discussion items before we go on? (*There were none*) We do not have a motion so the result of that is “nothing”. This needs to be carried over. We can't do it tonight. So, we'll go to the next item.

*Mr. Joe Picciotti and Mr. Al Gallina left the meeting.*

**PUBLIC HEARING**

*The legal notice for the public hearings appeared in “The Daily Messenger”. Post Cards were mailed to property owners within a minimum of 500 ft from location of each application along with “Under Review” signs being posted on the subject's parcels.*

*Speakers are requested to limit comments to 3 minutes and will be asked to conclude comments at 5 minutes.*

**DORCHESTER PARK – SECTION 2 – SOIL REMOVAL**

Bradhurst St

App No 22-SP-18

Owner – RSM Development Co., LLC

Acres – 36.10 +/-



Zoned – Residential

Applicant is requesting approval to allow the sale of the remaining 10,000 cy of topsoil. Topsoil would be screened and sold from this location.

Mr. Steve Mancini owner of RSM Development addressed the Board.

Mr. Mancini – Good evening. AT one point back when we were at the approvals of this last phase, we at that point were going to be utilizing the topsoil as fill but we have since filled the area and now have an excess of fill on this site. So we're looking to...obviously we've had BME Assoc calculate the amount of topsoil that we will need to finish the last phase and then the excess we would like to sell off.

Chairman Santoro asked for public comments.

Ms. Kate Crowley – Good evening. I wanted to point out one of the comments that Al Benedict made regarding the removal of the soil. There's a year around stream there and so we would be very interested in understanding what erosion control measures will be used while the topsoil is being readied for sale and as it's being removed from the site.

Mr. Mancini – The area between the current topsoil pile and the stream is heavily vegetated and will remain that way for the majority of the pile. The area where we will be working, in the front half of the pile that we will protect with silt fence. It actually grades off in the other direction.

Chairman Santoro asked for any other public comments.

Mr. Dave Nankin from 1174 Chaucer Court (Drumlins) – I would like to know if the topsoil that is there right now, did it all come from the site or has this been trucked in from other sites?

Mr. Mancini – It's existing topsoil from the site.

Mr. Nankin – And that's it? (Yes) Okay. I don't understand. I must be missing something because I would have thought that there would have been a great many people here from Dorchester protesting something like this. It's a very nice road. It's a residential area and to store topsoil and having it screened at the site must have been very noisy and will continue to be a very noisy deal for these poor people. I'm very surprised that nobody is here to protest this.

I would like to just say that I live in the Drumlins and in 2012, after I bought my home, the area behind me is probably 6 acres maybe more was cleared of all vegetation. It was cleared of trees and such and the topsoil stripped away and pushed behind my home in a mound that I would say was about 12 to 15 ft tall, maybe 40 ft wide and about 100 ft long. This last spring it was trucked away over a period of about 3 or 4 weeks, constant trucks going back and forth, up and down Wellington, probably 20 or more trips a day. I didn't know where the soil went to. It was topsoil that was removed from our area. It was stripped from our area and we were given a veneer of topsoil. It's just a matter of saying, okay we have to put in a lawn, we have to give you some topsoil and I'm going to give you some topsoil and here it is. And, the minute summer comes and the heat builds up and there is no rain, the lawns start drying out.

Other people have come to you in the past. I've been here, I listen. Those have come before you, asked permission for changes in their building codes, changes in things to do and people ---- have said that we've had problems with erosion, we've had problems with water runoff and you've held off giving the builder permission to continue on with what he was wanting to do until he corrected measures. Now, we have a lot of problems where we are. We have driveways that are getting no top coat, no room for a topcoat even if you wanted to put in on at your own expense. I have pictures of lawns here from homes that are 2 years old that are nothing but weed patches. There is very little foundation plantings. There's probably homes up there, 2 or 3 that have probably have multi layers of Tyvek that are over 2 years old that are not finished on the outside.

Everything that I say, you can just check for yourself, just a quick ride up there. I'm asking you to please withhold this person's application until somethings are corrected in our area. You're our last hope. There's nobody to help reinforce what needs to be done. We have a strong HOA board, they've spoken to the Code Officer, people have come up, they've looked at it and nothing seems to be done. There's a home on my road that has a silt skirt around the storm drain. It's been there for 2 years! People are already living in the house. When it rains heavily, there's puddles all over. It's not properly even graded. You can't take the skirt away because the silt will run in there. There's no grass, there's no topsoil. It's a travesty! I ask your indulgence and I ask for your help. I just want what is proper and due to the residents of Chappell Hill and you're our last hope. I thank you for listening to me.

Chairman Santoro – Thank you for your comments but....

Mr. Nankin - ...I know that you're talking about Dorchester but what my point was, other people have come before you, other builders have come and people have asked for your assistance and you have given it, you're very kind people. You do your very best to satisfy both sides and I don't envy your job. I understand that this is all about Dorchester but if this gentleman is asking for permission to continue with his endeavor to sell topsoil and if you don't give it to him, there's nothing for him to do until he corrects situations where we are, he won't be able to do what he wants to do. If you can't, I understand. But if you can, I would appreciate it. Thank you.

Chairman Santoro asked for any other questions or comments and there were none. A motion to close the public hearing was made by Joe Logan, seconded by Heather Zollo. The public hearing was closed. Chairman Santoro asked for comments from the Board.

Ms. Zollo – Kate brought up what our Code Enforcement Officer said about the stream. He also asked about how you're going to remove it and the time frame and questions such as that. How much topsoil are we talking about?

Mr. Mancini – It's approximately 10,000 cy.

Ms. Zollo – And you said it was from this site only. (Right) So you scraped it off before you built the houses. How much topsoil did you return to the properties as you were grading the lawns and putting the lawns in?

Mr. Mancini – All of the lawns in the first two sections are completely established.

Ms. Zollo – Right but how many inches of topsoil did you put back? (6 plus inches) What method are you going to use to keep the roads clear of mud and dirt?

Mr. Mancini – There's already an existing stone road all the way back to the topsoil pile.

Ms. Zollo – And once they get out of the site?

Mr. Mancini – Their tires and everything are cleaned off before they get there and if it ever turned into a situation then it would be by a mechanical broom.

Ms. Zollo – And what do you estimate...how many truck loads, how many days, how many weeks, how many months?

Mr. Mancini – Selling topsoil is not a daily on going thing. It could be 2 trucks one day 10 trucks one day.

Ms. Zollo – So you don't have buyers for the topsoil.

Mr. Mancini – No, it's not on a mass sale type of basis.

Ms. Zollo – Okay, that's all I have right now.

Mr. Seiter – So you'll be moving it a truck load at a time as you sell it so it could be going on for years.

Mr. Mancini – It could, yes. Typically from what I've seen that a quantity like that would be a year, year and a half project.

Mr. Logan – So Steve, the development, you haven't started with house sale or construction, you've still got gravel drives and thing like that.

Mr. Mancini – For Phase 3?

Mr. Logan – This final phase, yes. So everything else has been developed and completed. When do you expect to start selling properties on the rest of this?

Mr. Mancini – We may start the development on that final phase next summer.

Ms. Kinsella – He doesn't have final approval of that last section.

Mr. Logan – So it still has to come to us.

Mr. Mancini – So the best it would be, if we decide to come in, would be next summer.

Mr. Logan – The lots that are there, do they already have the topsoil? I think you said something about that.

Mr. Mancini – Yes, everything is done.

Mr. Logan – So this is excess from the entire project sitting in the middle of the...it's not really a cul-de-sac, it's a loop all the way around.

Mr. Mancini – If you recall, it's where the 5 acre park is.

Mr. Logan – So you don't need any of this. There's already 6" on the rest of the parcel or you never scraped off that area, this is excess from the rest of it.

Mr. Mancini – This is the excess from front side and then on the back side of the lots on the other side of the creek, we have topsoil stored there too which is not even into this calculation.

Mr. Logan – So you have way more topsoil than you need.

Mr. Mancini – Yes, like I said this was originally at one point...well you may not have studied it too much because we weren't in for approval but that phase was low so we were just going to stick it in as fill obviously topsoil is not the best fill.

Mr. Logan – So you've taken excavation materials from the other pieces and spread them around in this area to build up the ground?

Mr. Mancini – Correct, for the back phase? (Yes) So on the other side of the creek, that's all been raised.

Mr. Logan – Okay. Does the creek cut through the middle of that?

Mr. Mancini – Towards lots 33 thru 39, that's the area that needed to be filled.

Mr. Logan – Okay. You have 16,700 yds in there and you said 10,000 of it would go. (Correct) What's the rest...are you going to spread it out and you're done or do you still preserve it for when you excavate around each individual parcels.

Mr. Mancini – No the balance is for the remaining lots. So that pile even after removing, because as you know you have to store your topsoil on the site somewhere, would remain there. We wouldn't move it again until we put it on individual lots.

Mr. Logan – Okay, that's all I have.

Chairman Santoro – Is there any vegetated screening?

Mr. Mancini – So the topsoil pile is grown over but then the pile as it's screened is just covered with tarps.

Ms. Zollo – Were you planning to use any of that in the Drumlins for the properties that the gentleman was speaking about?

Mr. Mancini – No, we have plenty of topsoil on that site. That pile that is behind his house that he was mentioning is for that site.

Ms. Zollo – Okay, I guess I understood that that was already moved.

Mr. Mancini – No, there's a lot of topsoil left.

Chairman Santoro read the resolution.

### RESOLUTION

WHEREAS, the Planning Board made the following findings of fact:

1. A site plan application was received on August 10, 2018 by the Secretary of the Planning Board for a Site Plan entitled Dorchester Park Section 2, Phase 1 Final Grading Plan.
2. Applicant is requesting approval to allow the sale of the remaining 10,000 cy of topsoil. Topsoil would be screened and sold from this location.
3. A public hearing was duly called for and was published in "The Daily Messenger" and whereby all property owners within a minimum of 500' of the application were notified by U.S. Mail. An "Under Review" sign was posted on the subject parcel as required by Town Code.
4. The Planning Board held a public hearing on September 11, 2018 at which time the public was permitted to speak on their application.
5. The Action is classified as an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations, and the applicant provided Part I of the Short Environmental Assessment Form.

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on September 11, 2018 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, Dorchester Park Section 2, Soil Removal will not have a significant impact on the environment and that a negative declaration be prepared.

NOW, THEREFORE BE IT RESOLVED that the application of RSM Development Co., LLC, Site Plan entitled Dorchester Park Section 2, Phase 1 Final Grading Plan, drawn by BME Assoc, dated August 2012, received by the Planning Board Secretary August 10, 2018, Planning Board Application No. 22-SP-18, BE APPROVED WITH THE FOLLOWING CONDITIONS:

**Conditions to be addressed prior to the chairman's signature on the site plan:**

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That comments from Code Enforcement Officer, dated August 20, 2018 and September 10, 2018 be addressed.
3. That the comments in a letter dated September 5, 2018 from LaBella Associates be addressed

**Ongoing conditions:**

1. That the site plan comply with Town of Victor Design and Construction Standards for Land Development, including Section 4.
2. That the hours of activity are to be 7AM to 7PM Monday – Friday, 8AM-5PM on Saturdays with no work on Sundays or major holidays.
3. That erosion and soil control measures are in place and functioning at all times.
4. That the roads are kept clear of mud and dirt and that the dust shall be controlled.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the Planning Board's approval letter.

**DISCUSSION**

Mr. Logan – Before we entertain a motion, there's comments from Al Benedict and Wes you may have already addressed this but right now it says that *the dust will be controlled partially by vegetative cover and that may have been the case upon the Engineer's last inspection of the site but presently it appears that the soil has been screened and the established vegetation at this time is insufficient to control the dust. There are tarps covering a couple piles.* My question to you Steve is how are you going to stage the excavation so that you can maintain... I guess my question is are you going to have the whole excavation open at a time or are you going to whittle it away and try to at least establish vegetation.

Mr. Mancini – So if you were to look at it now. The area that has not been excavated for screening is vegetated. The topsoil piles that are screened, the covers have started to be replaced so all of that will be covered (with tarps?), with tarps.

Mr. Logan – Tarps, but not vegetated cover.

Mr. Mancini – With the screened soil, you don't want vegetation growing. That's why we're covering it.

Mr. Logan – Alright, I guess I just want to make sure that whatever is out there that isn't going to be excavated right away, you only have a 14 day window to start establishing vegetation that that gets taken care of.

Mr. Mancini – It's a very small area which is really the space that's been excavated. It would just need to be seeded then.

Mr. Logan – I guess I'd like to see that plan be expressed to our engineer or code enforcement for them to say they are comfortable with what you're moving to move ahead and control dust adequately out there.

Mr. Mancini – yes and again that would be to the covers so it would just be finishing up covering with material.

Chairman Santoro – Is that included in the September 5<sup>th</sup> letter?

Mr. Pettee – LaBella did have a comment on dust control and the applicant's engineer responded that *the existing topsoil stockpile has an existing vegetative cover that will be maintained as long as possible during topsoil removal operations and that a water truck could also be utilized as necessary*. So if there is something more that you'd want the resolution to say, we can add that in.

Mr. Mancini – The plan is to cover as we're going so if you want to add that in. Like I said, we've already started covering.

Mr. Logan – I guess I would just say that it be reviewed with the Town Code Enforcement Officer for his approval that it's adequate to eliminate dust propagation outside the site. (Sure) If we could add something like that Ernie.

Chairman Santoro – Well we need to add the Code Enforcement Officer's September 10, 2018 comment letter.

Ms. Zollo – Al also pointed out that we could adjust the hours of activity. I would like to recommend that we eliminate the Saturday hours and just Monday thru Friday 7AM to 7PM.

Mr. Mancini – Rather than elimination, how about a reduction because a lot of times individual homeowners would like material on weekends. It's not going to be a lot of traffic.

Mr. Logan – Could we eliminate that back to 5 PM or something like that?

Ms. Zollo – Yes, certainly 5PM and how about 8AM to start so it would be Saturday hours 8AM to 5PM.

Mr. Mancini – Sure. I'm assuming Heather you're stating that for also loading a truck and taking it out.

Ms. Zollo – My concern is the residents to have to listen to that backup noises for a year and a half when on the Saturdays you might want to enjoy your backyard.

Chairman Santoro amended the resolution.

Motion was made on the amended resolution by Joe Logan, seconded by Rich Seiter

Ernie Santoro	Aye
Joe Logan	Aye
Heather Zollo	Aye
Al Gallina	Absent
Rich Seiter	Aye

Approved 4 Ayes, 0 Nays

**ENGBRECHT, JEFF**

Vacant lands surrounding 7980 Main Street Fishers

Appl No 23-SP-18

Owner – Jeff Engebrecht

Acres – 18.55

Zoned – Residential

Applicant is requesting approval to regrade Lot 2 which would consist of enlarging the existing pond and to add a second pond. The fill material would be placed on site.

Mr. Al LaRue from MaMahon LaRue Assoc addressed the Board along with Jeff Engebrecht.

Mr. LaRue – Since we submitted the application, we want to phase the project. Our plan is to excavate this pond (existing pond) and either deposit the fill here or there (referring to the proposed fill areas on site plan) we're not sure exactly but I'm thinking here (location closest to the road). One of the things that Jeff has experienced is this particular culvert that leads to the creek, that's up when that creek gets going in the spring and it floods this back area. It backs up to a very flat swale and into this area. So what he wants to do is take this existing pond and make it larger, 5900 cy and spill it over here (to the proposed fill areas) and we understand that it's in a flood plain but we certainly understand FEMA and what we need to do, we're FEMA specialists and we know what the Town Code is.

Chairman Santoro – Do you have to get DEC approval for this?

Mr. LaRue – We'll have to get DEC approval. The Town will need to sign the application when we prepare it.

Chairman Santoro asked for public comment.



Mr. LaRue – Everything is going to remain on site, nothing is being moved off.

Mr. Logan – Is there a reason that you're making a mound out of it instead of just raising...is it FEMA or is it....It's like a stockpile is what you're doing.

Mr. LaRue – This is going to be about an acre excavation and about an acre fill. It's just a graphic showing...there's nothing magic about it. We're keeping it somewhat in line where an excavator is going to bring it and just keep going down in a line and back up.

Mr. Logan – I didn't know if you were just going to try to grade it so it makes sense from the road. Is it down from the road or up from the road?

Mr. LaRue – It's up. We can spread it.

Mr. Logan- The other thing, the stockpile that was built on Rawson Rd, we asked them to scrap the topsoil off where the stockpile was going to go and then use that topsoil on top of the new mounds, seed it and establish grass, etc.

Mr. LaRue – Yes, that's standard procedure. Just pull the topsoil off. You don't want to cover topsoil.

Ms. Kate Crowley – One of the comments that the Conservation Board had is that we were looking for some construction details on the new and enlarged pond. The soils that are on that site are highly erodible with moderately high permeability. So one of the things that we were interested in is will the pond leak once it's full of water.

Then the other question that we had follows your question that you just raised Joe. As we elevate that site, the question is do we affect water flow either on that parcel or on any of the adjacent parcels? I also find it interesting, one of the comments from the engineers is that culvert backs up and floods the back of that area. The question is should the town look at the sizing of that culvert?

Mr. Logan – Is it partially obstructed?

Mr. LaRue – No, it's clear and we'd hate to make it bigger, it would only increase it. We were thinking mentally that we want to put a valve on it to shut it off. I know that's not possible.

Mr. Logan – What am I missing? Did you say that it backs up into that....

Mr. LaRue - ....into that area right here.

Mr. Logan – So why would you want to valve it?

Mr. LaRue – No, no that was just a....to stop it from doing that....filling that area. No that's not realistic. But we do have to control the water and if they can get that water into a larger pond, we can reconfigure this if you'd like. This is 4 or 5 ft of fill, we can spread that out in that area but that's just a graphic depiction of how it really is.

Mr. Jeff Engebrecht – There isn't going to be any banks, I'm not going to build it up. I'm just going to dig a hole so when the water table is down, it's down and when it comes up, then it comes up. There won't be any sides holding the water in.

Mr. Logan – I was looking to not having a mound on your property. To spread it out so it conforms to the land and do what you need to do to get the topsoil established.

Mr. LaRue – Jeff is very experienced in construction so he knows. We just want to make something that contains that area roughly.

Mr. Logan – Is the bottom of that pond any lower than....

Mr. LaRue - ...the existing pond? No it's the same depth.

Mr. Logan – I was just wondering if it was going to drain the other pond. If it was going to be lower it would tend to flow through.

Mr. LaRue – We haven't had time to actually design this yet. There is going to be a berm along here with the soils. That's why we're only doing Phase 1 at this point.

Chairman Santoro asked for public comment.

Mr. Bill Smith from 8010 Main Street Fishers – I live west of Jeff. I think it's a great idea. I think what he's talking about will do a lot of good things for the property. It is a very large property. The mounding of that fill, you won't even see it. That culvert is a problem because it really backs up there and comes all the way around where the race track used to be and makes its way up to my property as well.

An anti-drain back in that culvert to keep the creek from coming up across the road would be pretty cool if it was doable. That's all I got.

Mr. LaRue – We're not impeding the drainage because most of the drainage is going down along the frontage. There's a couple of ways that the water goes out but the main way is this culvert. But what happens, if there's not enough volume, that all continues to back up and goes over on Mr. Smith's, it'll just walk around that edge because there's a swale along that old racetrack. So I think it'll do a lot of good.

Chairman Santoro asked for any other questions or comments and there were none. A motion to close the public hearing was made by Joe Logan, seconded by Heather Zollo. The public hearing was closed.

Mr. Logan asked Mr. Pettee if he had any comments.

Mr. Pettee – I don't have any direct comment or immediate response to what Kate had brought up. I'd be interested to follow up on that though.

RESOLUTION

On motion made by Joe Logan, seconded by Heather Zollo

WHEREAS, the Planning Board made the following findings of fact:

1. A site plan application was received on August 23, 2018 by the Secretary of the Planning Board for a Site Plan entitled 7980 Main Street Fishers.
2. It is the intent of the applicant to regrade Lot 2 which would consist of enlarging the existing pond and to add a second pond. The fill material would be placed on site.
3. A public hearing was duly called for and was published in "The Daily Messenger" and whereby all property owners within a minimum of 500' of the application were notified by U.S. Mail. An "Under Review" sign was posted on the subject parcel as required by Town Code.
4. The Planning Board held a public hearing on September 11, 2018 at which time the public was permitted to speak on their application.
5. The Action is classified as an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations, and the applicant provided Part I of the Short Environmental Assessment Form.
6. The Conservation Board reviewed the project on September 4, 2018 and stated the applicant should provide construction details for the enlarged and new pond sides due to the type of soil present. Also to have the applicant describe the trees to be removed and provide a seeding plan for the site. The Conservation Board also made comment that there are NYS DEC requirements that must be met prior to construction approvals.
7. A Coordinated Fire Service Site Plan Review was done on August 27, 2018 and no comments were offered at this time.

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on September 11, 2018 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, Jeff Engebrecht Pond will not have a significant impact on the environment and that a negative declaration be prepared.

NOW, THEREFORE BE IT RESOLVED that the application of Jeff Engebrecht, Site Plan entitled 7980 Main Street Fishers Lot 2, Smith Subdivision Grading Plan, drawn by McMahon LaRue Assoc, dated August 16, 2018, received by the Planning Board Secretary August 23, 2018, Planning Board Application No. 23-SP-18, BE APPROVED WITH THE FOLLOWING CONDITIONS:

**Conditions to be addressed prior to the chairman's signature on the site plan:**

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated September 11, 2018 from LaBella Associates be addressed.
3. That comments from Code Enforcement Officer, dated August 28, 2018 be addressed.
4. That a Flood Plain Development permit be obtained before the start of construction which is required when doing construction within the flood plain.
5. That the applicant provide proof that the flood plain will not be raised by more than 1 ft. foot.

**Ongoing conditions:**

1. That the site plan comply with Town of Victor Design and Construction Standards for Land Development, including Section 4.
2. Should an underground stream be encountered during construction, the Developer is to address the encroachment and impact to the underground stream to the satisfaction of the Town Engineer.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the Planning Board's approval letter.

Ernie Santoro	Aye
Joe Logan	Aye
Heather Zollo	Aye
Al Gallina	Absent
Rich Seiter	Aye

Approved 4 Ayes, 0 Nays

**APPLICATION HELD OVER FROM 7/24 MTG**

**SCOUT RESERVE SUBDIVISION**

County Road 9

Appl No 3-FS-18

Owner – DeHollander Design, Inc

Acres – 28.72 +/-

Zoned - Residential

Applicant is requesting final approval for a 7 lot subdivision on 28.72 +/- acres. The subdivision will contain five 1.01 acre lots, one .58 acre and one 23.09 acre lot, all will have frontage to Aldridge Rd.

Scott DeHollander addressed the Board.

Mr. DeHollander – Our application really hasn't changed significantly from the preliminary. But we did modify the plans sufficiently to comply with the check list for final approval and we submitted the plan about 5 weeks ago. This is our first time appearing for final approval.

We've received comments from all of the reviewing town entities including a letter from Wes today. I guess I'd like to dive into two issues from Codes and the balance of Wes' letter but I didn't want to preempt Wes. You had mentioned in your response that you wanted to maybe talk to the Board first so I can sit down while you talk through your letter.

Mr. Pettee – No, I'm fine. Feel free to address some of the Codes comments and we can work through Labella's as well.

Mr. DeHollander – Okay. Relative to Codes, we received 2 additional follow up comments today. They were specifically about sidewalks and about Lot 7's accessory structures and potential wetland impacts. I'd like to talk about sidewalks first.

Our project is a frontage project and there are no sidewalks in the area. I believe and support sidewalks, they are a good thing for the town. I'd be a little concerned about installing them at this time as part of our project because they would be specifically isolated. I would stipulate and agree with the Code Enforcement Officer that the Aldridge Road frontage, any potential work over there that we may become involved with would be better suited for sidewalks as that provides better connectivity to sidewalks and other developments in the area that are installing sidewalks. I just wanted to offer that up and I'm looking for some sort of guidance. I think the Code Enforcement Officer pointed out that it's the Board's discretion to require or waive the requirement for sidewalks. I don't have the specific section of the code that he was referencing but I'm sure it's there.

Chairman Santoro – Are there sidewalks across the street?

Mr. DeHollander – There are not, in fact there are no sidewalks on Aldridge Rd.

Mr. Logan – I was going to say, unless we are running sidewalks down to the school underneath the Thruway which we can't, it doesn't make a whole lot of sense to me to provide sidewalks on Aldridge or CR 9.

Mr. DeHollander – He pointed out the Duck Hollow Subdivision.

Mr. Logan – In the subdivision?

Mr. DeHollander – Up to CR 9.

Mr. Logan – There's a park there.

Mr. DeHollander – It's an interesting thing to talk about.

Mr. Logan – It would be interesting to tie into the park but that would be closer to the Thruway from the project site on the other parcel, not yours.

Mr. DeHollander – Are you speaking of Duck Hollow? (Yes) It aligns with the east/west property line that divides Sunset Meadows and our piece.

Mr. Logan – So you would have to provide some sort of walkway through the development to get there as opposed to a sidewalk on Aldridge and CR9. Anyone else have thoughts on that? You talked about some sort of walk or trail through the site.

Mr. DeHollander – Early on we did. We applied a conservation easement over a significant part of Lot 2. While I don't believe the easement is written, we're restricted of clearing and significant excavation in the conservation easement so that may preclude trails through that area. That's the darker area on the screen (referring to the overhead screen).

Mr. Logan – And really the rest of the parcels don't have access to that because it's essentially private property on 1 or 2 lots. It's only the 1 lot right now, right?

Mr. DeHollander – It's 1 large lot.

Mr. Logan – And at some point, you were talking about doing something on County Route 9 in the white area between the pond and....

Mr. DeHollander – .....That's right and at that time, we'd like to talk about how sidewalks may play a role in connecting adjacent sidewalks to adjacent sidewalks. How we might play into that connection.

Mr. Logan – 55 mph on CR9, getting a crosswalk there is kind of suicidal to get over to the park anyways at Duck Hollow.

Mr. DeHollander – There is not a crosswalk now.

Mr. Logan – I'm a little sympathetic to not having sidewalks required for this one.

Chairman Santoro asked for any other questions or comments from the public and there were none. A motion to close the public hearing was made by Joe Logan, seconded by Rich Seiter. The public hearing was closed.

Mr. DeHollander – Can I continue to speak to any of the other code issues? (Yes, go ahead) It seems as though and this will be repeated in Wes' comments as well, Lot 7 has become a bit of a "bug-a-boo" *per Chairman Santoro!* Specifically, the wetlands and it's not our intention at all for that to be the case. I'd like to talk about LaBella's issues and the Code's issues at the same time. But to be specific, Codes was concerned with accessory structures. I guess there's been a

history of variances being justified based on wetland impacts or wetlands existing on different lots. Our objective is to not create a burden for variances or anything for the town but rather to do some planning so that if an accessory can be provided there's some reasonable provisions in the plan for that to happen. There is a significant part of the south of Lot 7 that isn't impacted by wetland and it is outside of the conservation easement, it would be sufficient for a shed or some sort of accessory structure. I don't want to throw limits on it but it could be the size of a small barn to the size of a shed, there's enough room for that to happen in the back.

So our offer to address the Code Enforcement Officer's concerns about variances for the primary structure was that we would stipulate that there could be no variances granted for any structure that would be built on Lot 7 that would cover side setbacks and front setbacks. The structure would have to fit in the area that was outside of the wetlands. That seems to be a pretty fair way to address that issue. Then as far as the accessory structures go, we pointed out to the Code Enforcement Officer that there is sufficient area that would be available for some sort of accessory structure that wouldn't require a variance. That's the Code's piece.

Wes' issues are a little bit more detailed and I want to walk through the letter that came today. There are 5 points that address wetlands on the site. I just want to point out the wetland issue is really only impacting Lot 7. If we didn't have a Lot 7 with a house proposed on it, we wouldn't require a Nationwide Permit from the Army Corp of Engineers which is the mechanism that we are enabled to do the 1/10 of an acre fill that is proposed on this plan. There is no other coordination that would be required with the Army Corp on our project if Lot 7 wasn't part of it.

That also speaks to Item 1B. I think Item 1A is not really a significant issue to talk about tonight. That addresses a Joint Permit Application which is missing 2 pages in the engineers report. Item 1B where Wes is saying that a Jurisdictional Determination is required to make some sort of planning approval on this project is really concerning because I don't agree with that. I think that brings us to the preconstruction notice, the intent to do this Nationwide Permit and to do the wetland delineation that would be accepted by the Army Corp is really tied to a site plan got for Lot 7. To address that specific issue because it's our intent not to do anything that is not well thought out or well planned and it's very difficult to predict the type of footprint or architectural plan that might come forward for Lot 7. I would like to propose that we do something similar to what we did at Scout Ridge where we placed some sort of restriction on the site plan that it would require all of the associated construction permits including this PCM, the Jurisdictional Determination, etc., the coordination with the Army Corp. At that time, it can be very specific to the architecture which is our intent. Our solution might be different than what we ultimately take to the Army Corp. We are pursuing a very minimized impact which is allowed without compensatory mitigation. That means our disturbance of less than 1/10 acre requires no recreation of wetlands in the Army Corp's approach to those types of projects that are under 1/10 of an acre, is more of an administrative role. Projects that impact wetlands at an area that is greater than 1/10 of an acre up to 1/2 of an acre are part of the Nationwide Permit that you get into more sophisticated types of coordination with the Army Corp including creating wetlands to mitigate the area that you're impacting.

I'm not proposing that at this time but I'm pointing out that what we're faced with right now is the real property subdivision and I'd like to ask the Board to consider that the subdivision's real property subdivision move forward but place restrictions so that we come back and do the proper planning associated with this sensitive environmental area that would be part of the project. I think that captures pretty much everything that I had relative to the Army Corp.

Wes continued to point out a couple of technical issues. The area of impact is 3,000 sf and in our pre-application, we are about 900 sf greater but we did some grading modifications to further minimize the impact. And you are correct, we haven't received any word back from the Army Corp. You've probably been aware of some of the challenges in the Seneca Lake area. The Army Corp is very tied up with some issues down there and the 30 days....I don't have any correspondence to provide but there is a lot going on.

Chairman Santoro asked Mr. Pettee to explain 1E of his comment letter.

Mr. Pettee – That's kind of the one that Scott was trying to touch on. Listening to what Scott has articulated, I think it might be a very reasonable approach in terms of looking at the real property in the subdivision and tying some sort of condition to Lot 7. I think that's worth exploring so we don't get into this tangled web and delay you too much, it seems like that might be a reasonable approach. So our initial thought was to hold and to have the Planning Board not act on an approval resolution even with conditions. But I think maybe if I look a little more carefully and talk with either Joe Picciotti or Harris Beach (Town Attorneys) on how to address this specifically for Lot 7.

Mr. DeHollander – I would appreciate that. The only other thing that I would offer is the specific Nationwide Permit that we're looking for is Permit 29 for Residential Developments and in its preamble it specifically says that *this Nationwide Permit authorizes the construction of building foundations, building pads and tenant features that are necessary for the use of the residences or residential development*. So it's a construction permit, it's not necessarily a planning permit, although it's also detailed in the permit which is over 31 pages long that early conversation with the Corp is prudent. So we're doing that but the necessity of having the permit in place is really driven by construction time line, not the planning time line. The real property subdivision is not even mentioned in the permit. There is no restriction in the permit on creating a subdivision, the property lines that run through a wetland. It's the construction activity.

That's what I have on that one. I'd love to move on if I could to one other significant point in Wes' letter.

Mr. Pettee – Maybe before we get into more of the letter, if I understand correctly, the town did refer your application to the US Army Corp of Engineers. Am I right?

*Ms. Templar stated she had mailed it them.*

Mr. Logan – Before we leave that topic, I'm trying to understand what we're going to be left with here. It sounds like you have 6 buildable lots and you have to wait to get a permit from the Army Corp of Engineers only to work on Lot 7?

Mr. DeHollander – That's what we're looking at. If you put it into the context of when we go for the permit, the owner that is looking at that lot is going to want to work with the wetlands. So they are going to pick out the architecture that's going to work with the wetlands. It could be 1/10 of an acre up to 1/2 acre of impact and that would drive different Corp coordination.



Mr. Logan – But only on that piece of land (Lot 7)? (Yes) Would they have to purchase wetland somewhere else?

Mr. DeHollander – We're speculating, right? I've provided the minimized technical solution but we can't predict what architecture is going to come. It could be really spectacular, somebody may fall in love with the wetlands and will want to do something spectacular with it. We would insist that it be consistent with the conservation theme that we're trying to push into the project.

Mr. Logan – Just that one lot would be a real challenge for you to market. If something doesn't work the way the potential buyer would want, then you would have to start all over again, I would assume.

Mr. DeHollander – Right, which is another reason why obtaining the permit as part of the building permit construction makes the most sense. I think getting the pre-construction notice out there, the site walk if they choose to do one and accepting the delineation, all of that is very good ground work to do relative to Lot 7. But finalizing the permit, I'd like to tie that to the building permit for Lot 7 only. It's the only lot that is impacted by the wetlands.

So comment #2 deals with using the wetlands as the stormwater mitigation for the project. This approach was an approach chosen because it seemed to match the adjacent Sunset Meadows approach to the project. A rather large wetland area, its 9 acres, it has an incredible ability to mitigate the existing flows and a significant amount of additional without negatively impacting any buildings, any structures. That was our initial check. I think that's a consistent approach which, as I mentioned, the Sunset Meadows project. We've shown that the water surface impact is almost negligible. But we could do a better job of delaying stormwater from each individual house before it makes its way into the intermittent stream. So I'd like to take another stab at private infiltration on each lot in the form of a reserved area for infiltration. It would serve as a sediment sink through construction and then would provide some mitigation for the town concentration change that effectively happens when we add imperviousness to the site. That seems like a technical issue that we can work out as well Wes.

I think the balance of the comments were a lot more technical. I would just hit on Comment #8. We did use a local datum, our benchmark is noted. If that's a problem for coordinating stormwater reports, we can provide an equalization elevation or maybe you don't have a concern about the local datum but if there is, we can modify, equalize, whatever needs to happen there.

Mr. Pettee – I can find out.

Mr. DeHollander – I don't believe the checklist requires a USGS Datum. It requires specific intervals for contours and we meet that requirement. But if it has to be for convenience of comparing our reports or whatever, we can make that change for you. (Ok)

The shared force main that serves Lot 1 and 2; we're trying to push an issue with the Health Dept on this. It's really if we don't get the combined solution, we'll do individual force mains. It's really not an issue. We're just letting it work through its paces there.

Mr. Pettee – Any anticipation as to when you might get feedback?

Mr. DeHollander – Well, this project also requires a reality subdivision before I can provide you a mylar plat that would be for signature. The Health Dept will see the mylars first and their timeframe is..... I don't have any correspondence back from them yet. They told me 8 weeks about 8 weeks ago, so we're at the point where that should be wrapping up. (OK) I think that's really the most significant issue with the Health Dept.

That's what we got. I regret that we got a letter today. I had reached out trying to kind of preemptively talk through some of these things but everyone was busy and I understand 100%.

Mr. Pettee – I also apologize to the Planning Board for not having this letter prepared until today. That's not the way LaBella should be doing things...

Chairman Santoro - .....Well you had a lot on your plate.

Mr. Pettee – I'll try my best to not have that happen again because I know it also puts you in the position of not being prepared to respond during the Planning Board meeting.

Mr. DeHollander – We're all in it together. That's what I've got. Thank you

Chairman Santoro –There not being any more business, I'd like a motion to adjourn.

Motion was made by Joe Logan seconded by Heather Zollo RESOLVED the meeting was adjourned at 8:30 PM.

Cathy Templar, Secretary